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FINAL REPORT OF THE COMMITTEE TO INQUIRE INTO THE
CHANGES IN ELECTION LAWS REGARDING KHATAM-E-
NABUWAT DECLARATION

Hon.
High Court

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Islam is a revealed religion based on concept of Tauheed (oneness of A.mighty ALLAH) and the finality of the Prophethood of Muhammad (PBUH) (Khatam e Nabuwat). These two structural doctrines (Tauheed and Khatam e Nabuwat) are very basic pillars of Islam without which no one can claim to be a Muslim. The doctrine of Khatam e Nabuwat means that no new Prophet or Messenger will be sent to humanity after the Prophet Muhammad (PBUH)

The Holy Quran says: "Muhammad is not the father of [any] one of your men but [he is] the Messenger of Allah and last of the prophets. And ever is Allah, of all things, knowing." (Al-Ahzab 33:40)

Holy Prophet Muhammad (PBUH) has himself explained this cardinal doctrine as "My similitude in comparison with the other prophets before me, is that of a man who has built a house nicely and beautifully, except for a place of one brick in a corner. The people go about it and wonder at its beauty, but say 'Would that this brick be put in its place!' So I am that brick, and I am the last of the Prophets." (Bukhari, Muslim,

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There is a complete unanimity of views amongst all the scholars of Islam on the finality of prophethood. Dr Muhammad Iqbal, the ideological founding father of our Nation, in response to articles of Jawahar Lal Nehru published in the Modern Review of Calcutta, Iqbal got his article published 'Islam and Ahmedism' in the same magazine in 1935 which reads: "The Indian Muslims are right in regarding the Qadiani movement, which declares the entire world of Islam as Kafir and socially boycotts them, to be far more dangerous to the collective life of Islam in India than the metaphysics of Spinoza to the collective life of the Jews. The culture

value of the idea of Finality in Islam, I have fully explained elsewhere, its meaning is simple: no spiritual surrender to any human being after Muhammad, who emancipated his followers by giving them a law which is realisable as arising from the core of human conscious. Theologically, the doctrine is that the socio-political organisation called 'Islam' is perfect and eternal. No revelation, the denial of which entails heresy, is possible after Muhammad. He who claims such a revelation is a traitor to Islam. Since the Qadianis believe founder of the Ahmediyya movement to be the bearer of such a revelation, they declared that the entire world of Islam is infidel."

It was in this background of the Parliament of Pakistan passed the second amendment in the constitution in 1974 that read:

'A person who does not believe in the absolute and unqualified finality of the Prophethood of Muhammad (peace be upon him), the last of the Prophets or claims to be a Prophet, in any sense of the word or of any description whatsoever, after Muhammad (Peace be upon him), or recognises such a claimant as a Prophet or religious reformer, is not a Muslim for the purposes of the Constitution or law.'

The above mentioned doctrine of the finality of the Prophethood of Muhammad (PBUH) and the Constitutional position has also been reflected in various legislations and sub-ordinate legislations including election laws.

Mr. Muhammad Nawaz Sharif, the President, PMI.(N), constituted a three member committee (the Committee) to inquire into the circumstances leading to the change in the Declaration relating to Khatam-e-Nabuwat in the Nomination Form attached with the Elections Act, 2017. The Committee comprised Senator Raja Muhammad Zafar-ul-Haq, Leader of

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the House in Senate, as Chairman, and Senator Mushahidullah Khan, Federal Minister and Mr. Ahsan Iqbal, Federal Minister, as members.

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2. The Committee held numerous meetings, perused various documents and interviewed various persons. The Committee had initially submitted an interim report as directed by the Party President. On his further direction, this detailed and final report is now being submitted.

3. The background of the matter is that pursuant to the motions adopted by the National Assembly on 19 June 2014 and the Senate on 30 June 2014, the Speaker of the National Assembly, in consultation with the Chairman Senate and Parliamentary Leaders, constituted the Special Committee of the Parliament on Electoral Reforms on 25th July, 2014 comprising of 33 members [Annex - A] (comprising of Senators and Members of the National Assembly) which was later on expanded to 34 members. On 19 August 2014, renamed as Parliamentary Committee on Electoral Reforms (PCER), [Annex - B]

4. Subsequently, a Sub-Committee of the Parliamentary Committee on Electoral Reforms, initially consisting of 11 members was constituted on 24 October 2014 [Annex - C] and later on expanded to 16 members, [Annex - D] in order to have a thorough discussion and to frame draft legislation/constitutional amendments, if required.

5. The sub-committee of PCER held 93 meetings and submitted 10 progress reports along with its final report and draft legislation/constitutional amendments on 19 July 2017.

6. The Report of the Parliamentary Committee on Electoral Reforms containing the final draft of the Election Bill, 2017 was submitted to the National Assembly and Senate by the Chairman of the Committee on 7 August 2017.

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8. This Committee has carefully examined the following:

(1) The "Declaration and Oath by the Person Nominated" in Nomination Form-I attached with the Representation of the People (Conduct of Election) Rules, 1977 [Annex-E];

(2) The "Declarations by the Candidate in Form A (Nomination Form for Election to an Assembly/Senate) attached with the Elections Act, 2017 [Annex-F].

9. The following facts are worth-mentioning:

(a) The PCER in its 24th meeting held on 16 May 2017 decided that the **Nomination Form (Form IX)** will be (1) translated in Urdu (2) circulated amongst the members of the PCER and (3) it will be made part of the Election Act rather than Election Rules 2017. [Annex-F(1)]

(b) Sub Committee of PCER in its 88th meeting, held on 17 May 2017, considered and examined Nomination Forms (I to IX out of XXVII) of the draft Election Rules 2017 presented by the Election Commission of Pakistan and proposed the following amendments in the Nomination Form IX:-

(i) In the first paragraph (to be filled in by the proposer), the words "census block code" and accompanying table may be omitted;

(ii) In the Declaration and oath by the person nominated:

(a) in sub-paragraph (ii) of paragraph 1, after the words "attached" the words "or will be provided at the time of allocation of symbol" may be added;

(b) in sub-paragraph (ii) of paragraph 3, after the words "dues or" the word "Government" may be added; 177

(c) paragraph 4 may be omitted;

(d) the "Explanation" may be omitted;

(e) paragraph 6 may be rephrased/redrafted by the Election Commission of Pakistan by inserting the words "I have not been convicted in any case the following";

(f) paragraphs 10, 11, 16, 18, 19 and 20 may be omitted;

(g) in the marginal note against paragraph 7, 8 and 9, after the words "Attested copies to be attached" the words "where applicable" may be added;

(h) in paragraph 14, names of spouse(s) and dependents may be mentioned;

(i) in paragraph relating to Wealth Statement, the verification may be omitted and all such verifications/ affirmations clauses may be placed at the end of the Form;

(j) in the paragraph relating to Statement on Oath, the words "or applied for" may be omitted and

(k) in paragraph relating to No Objection Certificates, in sub-paragraph (a) the words "or application of such citizenship" and paragraph (b) in toto may be omitted. [Annex-F(2)]

(c) The Sub Committee in its 89th meeting, held on 18 May 2017, considered and examined Forms (IXA to XXVIIC). [Annex-

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(d) The Sub Committee in its 90th meeting, held on 23 May 2017, considered the **letter of Election Commission of Pakistan**, forwarded by the Ministry of Parliamentary Affairs expressing **strong reservations regarding amendments in the nomination forms for MNAs/MPAs made by the Sub Committee**. The Sub Committee reiterating its views that unnecessary questions should be omitted from the Forms. It reiterated its recommendation that the Form should be included in the Election Act 2017 (drafted by the PCER) rather than the Election Rules 2017 (drafted by Election Commission of Pakistan). It was decided that the matter may be referred to the PCER for final decision. The Sub Committee reviewed its recommendations regarding the nomination form for Senators (Form XX) and agreed that nomination form for Senators (on General seats, seats reserved for women and non-Muslims) should be the same as amended nomination form for MNAs/MPAs (Form IX) and Form XX (as amended) should be the nomination form for candidates for Senate Technocrats seats. [Annex-F(4)]

(e) The Sub Committee in its 91st meeting, held on 24 May 2017, considered draft Election Bill, Forms XXIII, XXVII and XXVIIC as redrafted by Ms. Anusha Rehman and Mr. Shafqat Mehmood, MNAs and it was decided that the Forms may be reviewed/redrafted by Ms. Anusha Rehman MOS for consideration in the next meeting of the sub committee.

(f) The Sub Committee in its 92nd meeting, held on 31 May 2017, considered redrafted Forms - XXIII, XXVII and XXVIIC presented by Ms. Anusha Rehman, were approved subject to some rechecking/scrutiny by the Convenor (law minister).

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(g) The Sub Committee in its 93rd and last meeting, held on 13 June 2017, the Convenor (Mr. Zahid Hamid, Federal Minister for Law and Justice) explained that the meeting had been called to seek approval of the Sub Committee for a new simplified Nomination Form which could be utilised for elections to all seats in the Assemblies and Senate. The Sub Committee appreciated the concept of single unified form and after detailed deliberations recommended the following amendments therein:-

(i) For paragraph 11, the following shall be substituted, namely: My Wealth Statement including assets and liabilities of my spouse(s) and dependent children as on preceding thirtieth day of June on the form prescribed under Income Tax Ordinance 2001 (XLIX of 2001) is attached."

(ii) The headings and paragraphs under the headings "Wealth Statement" and "Statement" shall be omitted.

(iii) In paragraph under the heading "Verification", after the words "to the best of my knowledge and belief" shall be inserted.

It was also decided in the meeting of the sub committee that the Ministry of Law and Justice may incorporate the amendments made by the Sub Committee in the draft Election Bill 2017 and in the Nomination Form (Form IX). (Annex-F(5))

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(h) The Sub Committee presented its final report to the PCER in 25th of the PCER, held on 19 July 2017. The PCER adopted the Final Report of the Sub Committee and decided that the

draft Election Bill 2017 along with 4 "notes of Reiteration" be presented to the National Assembly and Senate for approval.

- (i) The Report of the PCER was signed during its 26th meeting held on 21 July 2017.
- (j) While the minutes of the meetings of the PCER and subcommittee repeatedly mention preparation of the unified and simplified nomination form, there is no mention of discussion of amendments to the Declaration/oath relating to the Khatam e Nabuwat.
- (k) It appears that during this process of unification/simplification, the headings "Declaration and oath by the Person Nominated" in the headings was replaced with "Declarations by the Candidate" and before the paragraph related to Khatam e Nabuwat, "solemnly swear" was changed to "declare".
- (l) Similarly, the Election Act 2017 repealed the Conduct of General Elections Order 2002 and Electoral Rolls Act 1974, resultantly Articles 7B and 7C of the Conduct of General Elections Order 2002, read with the relevant provisions of Electoral Rolls Act 1974 and Electoral Rolls Rules 1974, relating to status of Ahmedis and procedure for objecting to inclusion of non-Muslims in the voters' list of Muslims, also stood repealed.
- (m) Reports of the proceedings in the National Assembly on August 28, 2017 (when the Bill was passed) reveal that although a large number of amendments were filed, discussed and voted upon, none related to the Declaration in question;
- (n) When the Bill was transmitted to the Senate, it was referred to the Standing Committee on Law and Justice. A large number

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of amendments were again discussed in the Senate Standing Committee. However none of these amendments related to the Declaration and Articles 7B or 7C of Conduct of General Election Order 2002;

- (o) It was not till the Bill was taken up for consideration in the Senate on September 22, 2017 that Senator Maulana Hafiz Hamdullah of JUI(F) moved an amendment inter-alia in Clause 110 relating to the Declaration for restoration of the expressions "on oath" and "solemnly swear".
- (p) Leader of the House in the Senate, Senator Raja Zafarul Haq supported the amendment moved by Senator Hafiz Hamdullah. However it was defeated by vote 34-13, when put to vote as opposition members from PPP and PTI opposed it.

10. When the Bill was transmitted back to the National Assembly with amendments and taken up for consideration on October 2, 2017, amendments were filed by Jamaat-i-Islami MNA Sahibzada Tariqullah and others. Due to rumpus created by major Opposition parties in an attempt to prevent passage of the Bill, no amendments could be moved and hence the Bill was passed as approved by the Senate and later assented to by the President.

11. Later on, Leaders of all Parliamentary Parties were contacted by the Speaker of the National Assembly and were made to realise the sensitivity of this issue and agreed in a meeting convened by the Speaker on October 4, 2017 and the original wording of the Declaration was reinstated vide the Elections (Amendment) Act, 2017

12. All the Parliamentary Political Parties initially agreed to restore the original Articles 7B and 7C of Conduct of General Elections Order, 2002. Consequently, amendment was made to restore these provisions. This was

also implemented through the Elections (Amendment) Act referred to above. [Annex - G]

12. Later on through consensus of all Political Parties the earlier Articles 7B and 7C of Conduct of General Elections Order, 2002 have been inserted in Election Act, 2017 vide Section 48A in an improved manner. The new addition of Section 48A has resulted in making the the previous Articles 7B and 7C which became inoperative 15 years ago on 26.06.2002 as perpetually operative. [Annex - H]

14. Mr. Zahid Hamid, Federal Minister for Law and Justice, who was also member of the Parliamentary Committee on Electoral Reforms and Convenor of its Sub Committee, during a meeting held on this issue, admitted to the fact that basically it was his primary responsibility to see that the draft does not contain any thing controversial but somehow he felt that he failed to perform his duty despite his legal acumen, experience and command of language.

15. It has come to the knowledge of this Committee that minutes of 93rd meeting of the Sub Committee of PCER were to be circulated along with its annexures (including the new simplified nomination form) by the National Assembly Secretariat but the Convenor of the Sub Committee asked the National Assembly official NOT to circulate the same which is borne in the official record on 22 June 2017. In view of the the above mentioned facts, it is obvious that it was ^A ~~an~~ ~~abysmal~~ failure on such a sensitive and sacred issue, on the part of Mr. Zahid Hamid, the Convenor of the Sub Committee, member of the PCER and Federal Minister for Law and Justice.

When the final draft was sent to the PCER for final approval in its 25th meeting, the members who represented all the parliamentary parties,

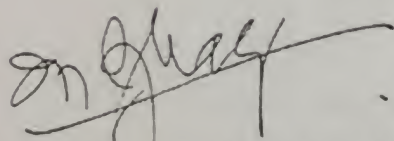
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did not notice any changes related to the declaration regarding Khatam e Nabuwat.

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17. There was a ~~major~~ demand for action against the law Minister which has already been fulfilled by his resignation while text of the Nomination Form relating to the Khatam e Nabuwat has been restored and the law relating to the voters lists has also been improved and made permanent.



(Raja Muhammad Zafar ul Haq) (Ahsan Iqbal) (Mushahid Ullah Khan)

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